

# **Appendix P**

## APPENDIX P

This Agreement and Order on Consent ("Agreement") is entered into by the State of Delaware Department of Natural Resources and Environmental Control ("DNREC") and Formosa Plastics Corporation, Delaware ("Formosa"), in connection with an enforcement action captioned U.S. and State of Delaware v. Formosa Plastics Corporation, Delaware, C.A. No. 05-\_\_\_\_, District of Delaware (the "Enforcement Action"). The Enforcement Action was resolved via a Consent Decree that became effective on \_\_\_\_\_.

In paragraph \_\_\_\_ of the Consent Decree, the parties agreed to memorialize certain of the obligations of Formosa in an enforceable agreement between DNREC and Formosa, and on that basis it is agreed as follows:

1. This Agreement shall apply to and be binding upon the parties to this action and their successors and assigns.
2. Formosa agrees that it shall implement and adhere to the following plans: Waste Analysis and Management Plan (Exhibit 1), PVC Solids Management Plan (Exhibit 2), and the Hazardous Materials Contingency Plan (Exhibit 3, collectively, the "Plans").
3. Formosa enters into this Agreement in order to resolve disputed claims, without admission of fact, violation, or liability. Formosa agrees that this Agreement is lawful and enforceable. DNREC agrees that execution of this Agreement by Formosa does not constitute an admission of any fact or violation of any law or an admission of any liability to any person. This Agreement shall not be used by DNREC for any purpose in any proceeding, except a proceeding to enforce the terms of this Agreement.
4. The parties agree that in the event of disputes under this Agreement, reasonable efforts shall be made to resolve such disputes without resorting to enforcement action. If enforcement action is necessary, DNREC agrees, where practicable, to endeavor by conciliation

to obtain compliance with the requirement of this Agreement. DNREC reserves its discretion to take such enforcement action as is reasonably necessary under the circumstances to effectuate this Agreement.

5. This Agreement shall not be amended except in writing signed by the parties.

Formosa may revise the Plans on the following basis:

(a) Material revisions to the Plans shall be made only with agreement of the parties. Failure by DNREC to object to a proposed material revision to a Plan within 30 days of submission by Formosa shall be deemed as agreement to the proposed revision.

(b) Non-material revisions to the Plans may be made by Formosa at any time, and written notice of such revision shall be provided to DNREC within 30 days of implementing such revision. Failure by DNREC to object to a claimed non-material revision within 30 days of notification shall be deemed as agreement that such revision is non-material.

6. This Agreement becomes final and effective on the date of execution by the Secretary of DNREC.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Kevin P. Maloney (I.D. No. 2410)  
Deputy Attorney General  
DNREC Legal Office  
89 Kings Highway  
Dover, DE 19901  
(302) 739-4636  
Attorney for State of Delaware

DATE: \_\_\_\_\_

\_\_\_\_\_  
on behalf of  
Formosa Plastics Corporation, Delaware

DATE: \_\_\_\_\_

\_\_\_\_\_  
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Attorney for Formosa Plastics Corporation,  
Delaware

IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Secretary, DNREC